



Memorandum

Date: August 22, 2019
To: State Coastal Conservancy
From: Sam Schuchat, Executive Officer
Joel Gerwein, South Coast Program Deputy Manager
RE: Los Cerritos Wetlands Authority

Exhibit 1: [Project Location and Site Maps](#)

The purpose of this memorandum (“memo”) is to update the Conservancy on the Los Cerritos Wetlands Authority’s (LCWA) efforts to protect and restore the Los Cerritos Wetlands, and the Conservancy’s involvement in those efforts. This memo addresses: 1) the Los Cerritos Wetlands Restoration and Oil Consolidation Project, which involves a land swap between Beach Oil Mineral Partners (BOMP) and LCWA and an Upper Los Cerritos Wetlands Mitigation Bank; and 2) the Programmatic Environmental Impact Report (PEIR) for the Los Cerritos Wetlands Conceptual Restoration Plan.

BACKGROUND

The Los Cerritos Wetlands (LCW) Complex is a 500-acre mosaic of public and privately-owned properties located along Pacific Coast Highway, the lower reach of the San Gabriel River, and the Los Angeles-Orange Counties’ borders (Figures 1 and 2, Table 1). The LCW once spanned 2,400 acres and functioned as the estuary for the San Gabriel River. It has been greatly reduced in size due to development and industrialization, especially in the form of oil operations, but the LCW retains tremendous potential for enhancement and restoration. The LCW is one of the last opportunities for a large-scale tidal wetlands restoration project in southern California. The Conservancy has had a long history of involvement in the LCW Complex, and has been actively pursuing protection and restoration efforts in the region for decades.

The Conservancy's efforts in the LCW complex are currently being pursued through its involvement with LCWA. LCWA is a joint powers agency formed in 2006 to develop a comprehensive program of acquisition, protection, restoration and management of the LCW Complex. The LCWA has four members, including the Conservancy, the Los Angeles and San Gabriel Rivers and Mountains Conservancy ("RMC"), and the Cities of Long Beach and Seal Beach. The Conservancy determined that pooling resources with these other agencies through a joint powers authority was the best way for the Conservancy to achieve its wetland protection and restoration goals in the LCW Complex. LCWA currently leads wetland protection and restoration efforts in the region. Since its formation, LCWA has acquired 166 acres of the LCW Complex (Figure 2), of which the Conservancy has helped fund the acquisition of at least 66 acres.

1. LOS CERRITOS WETLANDS RESTORATION AND OIL CONSOLIDATION PROJECT

The Los Cerritos Wetlands Restoration and Oil Consolidation Project (Consolidation Project) is proposed by Beach Oil Minerals Partners (BOMP), an energy company with active oil operations in the LCW Complex. LCWA and the City of Long Beach are key partners in the Consolidation Project. The City of Long Beach, in addition to being part of the LCWA, also has land use authority over the project area. The project's overall intent is to protect and restore ~183 acres of the tidal wetlands complex, a portion of which is currently used for oil production, while consolidating oil production on two smaller properties comprising ~12 acres owned by LCWA and Lyon Housing LLC. The 183 acre restoration area is made up of the 150 acre Synergy Oil Field, and the 33 acre City of Long Beach property. The 12 acres on which oil production will be consolidated are made up of a 5 acre parcel owned by LCWA (the "OTD Parcel"), and a 7 acre parcel owned by Lyon LLC (Figure 3). These 12 acres have low value for future restoration to wetland or other habitat. The Synergy Oil Field is comprised of a northern portion and a southern portion. The northern portion contains approximately 67 acres of natural habitat (the "Northern Synergy Oil Field"), of which approximately 40 acres is deemed to be high quality wetland (known as "Steamshovel Slough"). The southern portion, which is approximately 83 acres, contains active oil operations (the "Southern Synergy Oil Field") and has high value for future restoration to wetlands and related habitat.

Public benefits from the Consolidation Project include the eventual ~183 acres of protected, restored and enhanced tidal wetlands and new public access facilities, including a visitor center and trail. BOMP will benefit from the ability to drill new oil wells and construct associated infrastructure, including storage tanks, pipelines, and an office building, increasing oil production to approximately 80 times current levels, from about 300 barrels per day (bpd) to up to 24,000 bpd.

a. LAND SWAP AND CONSERVANCY APPROVAL OF OTD PARCEL TRANSFER

A key component of the Consolidation Project is a land swap. On September 2, 2016, BOMP's affiliate, Los Cerritos Wetlands Limited Liability Corporation (LCW LLC) and LCWA entered into an Option Agreement for a land swap between the two entities, which was approved by LCWA's board on August 4, 2016. Under the Option Agreement, LCW LLC reserves the option to transfer the Synergy Oil Field to LCWA in exchange for ownership of the OTD Parcel, subject to a number of conditions. The land swap would allow LCWA to acquire ownership of wetlands and natural habitat that can be restored, and allow BOMP to consolidate its oil operations on the OTD Parcel.

Upon BOMP meeting the conditions set forth in the Option Agreement and exercising its option, the land swap is intended to occur as follows (Figure 3):

- LCW LLC will transfer the Northern Synergy Oil Field property, located at 6433 East Second St, Long Beach, CA, to LCWA.
- LCWA will transfer the OTD parcel located at the northeast corner of Studebaker Road and Westminster Blvd to LCW LLC.
- BOMP will establish and operate a mitigation bank, the Upper Los Cerritos Wetlands Mitigation Bank, on the Northern Synergy Oil Field, which includes Steamshovel Slough. Operating the mitigation bank will involve restoring tidal wetlands and native uplands on the property, and BOMP will receive the right to sell mitigation credits (see below). LCWA, as the new property owner of the mitigation bank property, will be obligated to maintain the property for perpetuity.
- BOMP will establish public access facilities on the Northern and Southern Synergy Oil Fields, including a public access trail, parking, and a visitor center constructed by remodeling an existing small office building. BOMP will transfer these public access improvements to LCWA, including the improvements on the Southern Synergy Field, after BOMP's new office building is constructed and the visitor center is complete. The portion of the Southern Synergy Field where the public access improvements are located will be transferred to LCWA before the remainder of the southern property.
- LCW LLC will make an irrevocable offer to dedicate the Southern Synergy Oil Field (not including the public access improvements) to LCWA. BOMP will gradually phase out oil production on the Southern Synergy Oil Field, with ~50% of the existing 39 oil wells to be capped and abandoned within ten years, and the remaining wells to be capped and abandoned within 20 years. Upon the cessation of oil production activities and clean up and remediation, LCWA may accept the offer and acquire title to the Southern Synergy Oil Field. BOMP will retain the option to establish a mitigation bank on the Southern Synergy Oil Field after the property is transferred to LCWA.

- BOMP will retain the mineral rights 500 feet underground on both the Northern Synergy Field and Southern Synergy Field.
- As part of the conditions of exercising the option, the Consolidation Project has to have conducted environmental review and received all entitlements. In addition, BOMP and LCWA are required to enter into a Land Exchange Agreement to effect the foregoing.

Before LCWA can transfer the OTD Parcel, the Conservancy must approve the transfer of the OTD Parcel from LCWA to LCW LLC. On May 30, 2001, Southern California Edison made an irrevocable offer to dedicate fee title of the OTD Parcel to the Conservancy, pursuant to the settlement of the matter of *Earth Island Institute, Donald May and David Jeffries v. Southern California Edison Company* (US District Court, Southern District of California Case No. 90CV1535-B). The offer was made to “implement the Conservancy’s resource enhancement program at the Los Cerritos Wetlands.” The offer required the Conservancy to designate a party to accept the offer. On January 18, 2007, the Conservancy approved the designation of LCWA to accept the OTD Parcel, on the condition that “the Conservancy shall approve any transfer of the OTD property by the LCWA if the OTD property is transferred for purposes other than its physical restoration under the Los Cerritos Wetlands resource enhancement program.” Because the OTD Parcel will be used for oil operations and will not be physically restored, the Conservancy must approve the transfer of the OTD Parcel from LCWA to BOMP.

As part of the overall Consolidation Project, but not involving LCWA:

- Oil production would also be phased out on an adjacent 33-acre property owned by the City of Long Beach that currently supports 11 operating wells and two additional wells that are not in use (Figure 3). LCW Oil Operations, LLC, an affiliate of BOMP, is currently leasing the site for oil production. Synergy Oil & Gas, LLC, an affiliate of BOMP, is operating the oil production facilities on this site. Oil production on this property would be phased out on the same schedule as on the Southern Synergy Oil Field. Tidal wetland restoration is also planned for this property.
- BOMP will construct new oil wells on the OTD parcel and on a 7-acre parcel, known as the Pumpkin Patch, owned by Lyon Housing LLC. 70 new wells and four storage tanks would be constructed on the OTD parcel, and 50 new wells, an office building, and a warehouse would be constructed on the Pumpkin Patch. An ~2,200 ft pipeline would be constructed to connect the Pumpkin Patch and the OTD parcel. As a result of the project, oil production will increase significantly, as noted above.

b. MITIGATION BANK

As part of the Consolidation Project and as referenced above, BOMP intends to establish and operate the Upper Los Cerritos Wetlands Mitigation Bank (bank) on the ~67-acre Northern Synergy Oil Field (Figures 2-3). Operation of the bank will involve restoring tidal wetlands and

native uplands on the property and selling mitigation credits. BOMP is working with an Interagency Review Team (IRT) to finalize the Bank Enabling Instrument and associated documents governing the operation of the bank (collectively, the “BEI”). The IRT currently consists of the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service, the California Department of Fish and Wildlife, and the California Coastal Commission. The BEI is expected to be finalized by Winter 2020, before the land swap occurs.

Upon consummation of the land swap described above, LCWA will become the property owner of the Northern Synergy Oil Field and have obligations to the bank as the bank property owner. BOMP will be responsible for the restoration and enhancement required for the bank until it has met the bank’s performance criteria, and the long-term management endowment fund has been fully funded for three years. BOMP will then collect and sell mitigation credits generated from the bank. After BOMP has fulfilled its restoration and monitoring obligations, LCWA will be responsible for the long-term management of the bank property for perpetuity, to be funded by an endowment fund established by BOMP. The IRT will continue to oversee LCWA’s long-term management of the bank property. Southwest Resource Management Association (SRMA), a non-profit conservation land management organization, will hold a conservation easement over the bank property . SRMA will also control the endowment fund. SRMA holds an easement over the largest mitigation bank in California, and has been selected by the IRT to hold the easement over the bank property.

As the potential long-term property owner of the bank pursuant to the land swap, LCWA has an interest in the terms of the Upper Los Cerritos Mitigation Bank. The Conservancy, as a member agency to LCWA, and as the agency approving the transfer of the OTD Parcel in exchange for the Synergy Oil Field, also has an interest in the terms of the Upper Los Cerritos Mitigation Bank. LCWA is reviewing the BEI with the participation of Conservancy staff, and will provide input to the IRT regarding its concerns. LCWA and the Conservancy have four primary issue areas regarding the Upper Los Cerritos Mitigation Bank documents in their current form:

- i. **Adequacy of Endowment Fund:** It is critical that the endowment fund be adequate to provide for long-term management of the bank property. If adequate funding is not available, restored and enhanced habitats may become degraded, and LCWA may be unable to meet its obligations under the BEI. As of the date of this memo, Conservancy and LCWA staff and contractors have reviewed the assumptions underlying the endowment fund calculations and found that long term management costs were not included or were underestimated, resulting in an endowment fund size that will likely prove inadequate. Detailed comments about these costs were provided to the IRT on August 9.
- ii. **LCWA’s Liability:** While LCWA will take responsibility for the long-term management of the bank property upon acquiring the property, LCWA should not take on liability associated with establishing the mitigation bank and BOMP’s operation of the mitigation

bank, or with BOMP's on-going oil operations that are part of the Consolidation Project. LCWA seeks to be adequately protected, and to have adequate funding available and processes in place to insure against liabilities associated with the Synergy Oil Field property. As one potential measure, LCWA is requesting that adequate insurance coverage and indemnity be provided to cover such liability.

- iii. **SRMA's Control of the Endowment Fund:** The BEI provides for SRMA's control of the endowment fund. Under the current agreement, SRMA would control disbursements from the endowment fund to LCWA to pay for the long-term management of the property, and has the ability to enter onto the bank property to conduct land management activities of its own. This arrangement could lead to delays and inefficiencies in land management actions. As the entity responsible for carrying out management actions, LCWA has requested that it retain adequate control of the endowment funds so that it may meet its long-term management obligations.
- iv. **LCWA Not a Signatory to the BEI:** When LCWA becomes the owner of the Northern Synergy Oil Field, the BEI will already be final and will impose obligations on LCWA. However, as of the date of this memo, LCWA is not a party to the BEI and is not a member of the Interagency Review Team. As a result, the terms of the BEI that will affect LCWA's ownership of the property are being negotiated without LCWA. LCWA has been invited to submit comments on the BEI. However, as a non-party, LCWA's comments do not have to be accepted. If the BEI includes future landowner obligations that are unacceptable to LCWA, LCWA will have to either agree to comply with those obligations or refuse to take ownership of the Synergy Oil Field. LCWA has requested that it be made a party to the BEI so that LCWA's concerns regarding its property ownership of the bank can be adequately addressed.

c. CURRENT STATUS OF CONSOLIDATION PROJECT

The City of Long Beach certified the Final Environmental Impact Report for the Consolidated Project on January 16, 2018. The California Coastal Commission approved a Coastal Development Permit (CDP) for the Consolidated Project, including the land swap, wetlands restoration, and oil consolidation on December 13, 2018, contingent on BOMP and LCWA meeting 25 permit conditions, 19 of which must be met before the CDP will be issued. These permit conditions include the preparation of various plans and technical reports to ensure public safety and the protection of water quality, wetlands, sensitive species, and cultural resources. Conservancy staff estimates that these permit conditions will take 1-3 years to meet.

On February 11, 2019, the Pu'uvunga Wetland Protectors, a non-profit organization, filed a lawsuit challenging the California Coastal Commission's approval of the CDP. The lawsuit alleges that the Consolidated Project is inconsistent with the Coastal Act, and will result in significant greenhouse gas emissions and adverse impacts to biological and wetland resources, tribal and

cultural resources, and visual resources. The lawsuit names LCWA, BOMP, LCW LLC, and the City of Long Beach as Real Parties in Interest. The lawsuit is expected to move slowly and, as of the date of this memo, there have been no developments since it was filed.

As mentioned above, the Upper Los Cerritos Wetlands Mitigation Bank is anticipated to be finalized Fall of 2019. The Land Exchange Agreement is anticipated to be finalized Fall of 2019 or Spring of 2020. Prior to LCWA entering into the Land Exchange Agreement with BOMP, at one of its upcoming public meetings, the Conservancy will consider whether to approve the transfer of the OTD Parcel for purposes of the Consolidation Project.

2. PEIR FOR LOS CERRITOS WETLANDS RESTORATION

LCWA is preparing a PEIR for the restoration of the entire 500-acre LCW complex, with funding from the Conservancy, RMC, and the National Fish and Wildlife Foundation. The PEIR will identify an optimized restoration alternative based on the conceptual restoration plan that was adopted by LCWA in 2015. A Technical Advisory Committee is reviewing the optimized restoration alternative and the PEIR. A Notice of Preparation was issued on March 8, 2019. The Draft PEIR is scheduled to be released for public comment in mid-December 2019, and the PEIR is expected to be made final in late March 2020. As noted above, the Los Cerritos Wetlands Restoration and Oil Consolidation Project has completed its CEQA compliance. The PEIR will examine potential restoration alternatives for the Consolidation Project, but since the Consolidation Project has already completed CEQA compliance, the PEIR will not guide the restoration design at the Synergy property. Impacts from wetlands restoration and public access components of the Consolidation Project are also being considered in the PEIR.

Table 1. LCW Complex and Consolidation Project Parcels, Ownerships, and Acreages (See Figure 2)

Parcel Name	Owner	Acreage	Notes
LCW Complex Parcels			
Synergy Oil Field	LCW LLC (Private)	150	Part of Consolidation Project
City of Long Beach oil field property	City of LB (Public)	33	Part of Consolidation Project
Alamitos Bay Partners Site	Alamitos Bay Partners (Private)	6	
LCWA wetlands properties (Includes Central LCWA Site, Zedler Marsh Site, Isthmus LCWA Site, and South LCWA Site)	LCWA (Public)	166	
Bryant properties (Includes Bryant Central Site and Isthmus Bryant Site)	Bryant Dakin LLC (Private)	17	
Callaway Marsh	LA DWP (Public)	4	
State Lands Parcel	State Lands Commission (Public)	5	
Orange County Retarding Basin	Orange County (Public)	36	
Hellman Retained	Hellman (Private)	45	
Orange County Site	Orange County (Public)	3	
San Gabriel River (Reach within LCW Complex)	Public	22	
Haynes Cooling Channel	LA DWP	12	
Subtotal LCW Complex		501	
Oil Consolidation Parcels			
OTD Parcel	LCWA (Public)	5	Part of Consolidation Project
Pumpkin Patch	Lyon LLC (Private)	7	Part of Consolidation Project
Subtotal Oil Consolidation Parcels		12	